

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  NATURAL GAS SERVICE— CURRENT BILLING ISSUES	DOCKET NO. NOI-01-1
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**ORDER ADDRESSING RESPONSES TO EMERGENCY INQUIRY**

(Issued April 12, 2001)

**PROCEDURAL BACKGROUND**

On March 22, 2001, the Utilities Board (Board) issued an order establishing Docket No. NOI-01-1 as an emergency inquiry concerning the compliance of regulated utilities with the provisions of 199 IAC 19.4(10). The inquiry was opened because this year customers of Iowa's natural gas utilities experienced a winter of unusually high natural gas commodity prices and a November-December period that was unusually cold. This combination of events sent utility purchased gas costs, utility bills, and utility revenues to record highs. These events have affected all natural gas customers, some of whom do not have the financial resources to manage the resulting increase in household expenses. As a result, some customers have been unable to pay their natural gas utility bills in full.

Subrule 199 IAC 19.4(10) contains requirements regarding the availability of payment agreements for customers unable to pay their bills. The subrule provides that when an existing residential customer cannot pay in full a delinquent bill for utility service, the utility must offer the customer an opportunity to enter into a reasonable

agreement to pay that bill, unless the customer is in default on a prior payment agreement. Reasonableness of the payment agreement is determined by considering current household income, ability to pay, payment history, the size of the bill, the amount of time and the reasons why the bill is outstanding, and any special circumstances creating extreme hardship in the household. At a minimum, utilities are required to offer each customer who is unable to pay their current bill at least one payment agreement giving the customer the minimum option of spreading the past-due payments over at least 12 months, along with payment of current amounts due.

Low-Income Home Energy Assistance Program (LIHEAP) eligible customers may maintain their energy service during the period November 1 through April 1 pursuant to the winter disconnection moratorium provided in Iowa Code § 476.20(3) (2001). Under this provision, natural gas utilities cannot disconnect service during the specified time period for a resident who is a head of household, as defined by law, and who has been certified to the public utility by the local agency which is administering the LIHEAP or Weatherization Assistance Program as being eligible for either program. This winter disconnection moratorium ensures continued service for these customers during the coldest winter months, but can result in a relatively large number of disconnections after April 1 of each year. It appeared likely the record utility bills of this winter could result in a record number of disconnections in April while below average temperatures held through late March. In response, the Board adopted emergency rules, effective on March 30, 2001, that extended the moratorium to May 1, 2001.

Since utility costs and revenues affecting natural gas customers during the 2000-01 heating season are unprecedented (including those still receivable by utilities from consumers), the Board initiated the inquiry to determine whether current rules offer sufficient options for customers. The Board was also concerned whether utilities were making an extra effort to communicate with customers and to work with customers to develop payment arrangements that would allow the customer to maintain service. In order to evaluate the rules, the Board order asked the utilities to respond to 11 questions. The Board also scheduled a workshop to obtain additional information and to obtain input from agencies and individuals that help customers with high gas bills.

The following utilities filed written comments: IES Utilities Inc. and Interstate Power Company (Alliant), MidAmerican Energy Company (MidAmerican), Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Peoples), United Cities Gas Company, a division of Atmos Energy Corporation (United Cities), Allerton Gas Company, Consumers Energy, the Iowa Association of Municipal Utilities, and the cities of Bedford, Bloomfield, Brighton, Brooklyn, Cedar Falls, Clearfield, Emmetsburg, Everly, Fairbank, Gilmore City, Harlan, Hartley, Hawarden, Lake Park, Lamoni, Lenox, Lineville, Manilla, Manning, Montezuma, Morning Sun, Moulton, Prescott, Preston, Rock Rapids, Rolfe, Sabula, Sac City, Sioux Center, Tipton, Wall Lake, Waukee, Wayland, Wellman, and Woodbine.

The following utilities and organizations were represented at the workshop: Consumer Advocate Division of the Department of Justice (Consumer Advocate), Alliant, MidAmerican, Peoples, United Cities, the Iowa Association of Municipal

Utilities, Emmetsburg Municipal Utility, Department of Human Rights, Bureau of Energy Assistance, Legal Services Corporation of Iowa (Legal Services) and representatives of community action (CAP) agencies in Burlington and Waterloo. Written comments were received at the workshop from CAP agencies in Des Moines and Davenport. Consumer Advocate and Legal Services filed written comments after the workshop.

The Board reviewed the written comments and oral comments made at the workshop, and has summarized them in four separate categories: 1) reasonable payment arrangements, 2) budget billing, 3) customers who do not pay their bills November to April, and 4) customer education. The Board discussion concerning compliance with its rules and the need for additional information is set out below the summary of comments.

## **SUMMARY OF COMMENTS**

### **1. Reasonable payment arrangements**

It was recognized both by utilities and consumer agencies that long-term payment arrangements are a financial burden to the utility and risk the possibility of customers falling further behind if they experience high bills again next winter. Some utilities, particularly the smaller municipal utilities, were more emphatic about the financial burden of carrying unpaid bills. The utility has already paid for the gas and must pay for gas on an ongoing basis. MidAmerican stated that the total customer debt from budget billing and arrears is approximately \$90 million.

Subrule 199 IAC 19.4(10) requires a utility to offer reasonable payment agreements to customers who cannot pay their gas bills in full, unless the customer is in default on a prior payment agreement. The subrule describes a reasonable agreement as one that considers household income, ability to pay, payment history, the size of the bill, the amount of time and the reasons the bill is outstanding, and any special circumstances creating extreme hardships with the household. The subrule then requires the utility to offer the customer the option of spreading the payments over a period of at least 12 months.

The utilities, both rate-regulated and municipals, supported the current rules as providing the flexibility to address the current crisis in high gas bills. All of the utilities indicated that they offered payment agreements to customers who could not pay their bills and who had not defaulted on a prior payment agreement. Many of the utilities indicated that the offer was made without regard to the financial situation of the customer. Alliant and MidAmerican stated that they typically asked the customer what the customer could pay.

Responses concerning application of the reasonableness standard were not consistent. Generally, the reasonableness standard does not seem to be followed. Rate-regulated utilities do not want to gather customer credit histories that include information required by the subrule. Additionally, comments from utilities and consumer agencies suggest that utilities are not always offering customers a 12-month payment plan and are using the 12-month payment period as a maximum rather than the minimum period required by the subrule.

All of the utilities recognized that this past winter created a crisis among customers and dramatically increased the number of customers who are in arrears. Some workshop participants likened it to a natural disaster. The utilities also indicated that they are flexible with customers and are interested in working with customers to find a reasonable resolution to the customers' payment problems. Alliant stated that it treats each customer as unique and is willing to renegotiate payment agreements if the customer is not able to make the payments. Alliant and the other utilities emphasized that the customer should contact them rather than simply not pay. More communication between the utility and the customer helps the utility to be more flexible and to negotiate a payment arrangement that the customer can afford.

The utilities stated that they have instructed their customer service representatives on the various payment options and the need to accommodate the customer's individual financial situation if possible. The consumer agencies, though, stated that customers are not always provided all available options. Examples of this included giving customers only one payment option at a time. That is, the utility makes a minimum offer and goes no further unless prompted by the customer. In most cases, a 12-month payment plan is the maximum offered for first time arrangements. If the customer contests the first offer, the utility proceeds to a second offer, and so on, until either an agreement or impasse is reached. At least one utility routinely asks for as much as a 25 percent down payment before agreeing to a payment arrangement. This is apparently being done without regard to the customer's ability to pay or any customer financial information.

There are indications of reasonable payment arrangements not being offered, especially where the customer does not meet assistance guidelines. Concerns were expressed that many customers, particularly elderly customers, believe the utilities' first offer is the only available alternative. Unless they contest the first offer, the utility does not necessarily offer more affordable alternatives.

Legal Services proposed the idea of taking the high winter bills for December, January, February, and March and setting them aside in a separate payment arrangement over a longer period of time, such as 24 months. A variation of this would be to also set aside billed amounts in excess of the budget billing (level payment) amount over these four months, for separate repayment over a period of up to 24 months. Customers would be expected to pay their regular monthly billing or monthly budget payment and any other payment arrangements. Meanwhile, this special agreement balance would not be considered in calculating budget billing amounts or any other payment agreements for the account. The special agreement would be outside the normal credit routines and could not be the basis for disconnection of service unless it is not paid in full by the final payment date of the special agreement. If the customer moves to another premise with the same utility, the special agreement could be continued. If the customer terminates service with the utility, the balance of the special agreement could become due and payable, with any unpaid amount subject to credit collection activity and grounds for denying future service.

## **2. Budget billing**

Budget billing (level payment) plans have been used by customers to levelize their utility costs over a year and thus stay current with those costs. Utilities indicated that they adjust the budget billing amounts at either three-month or six-month intervals. These adjustments are made by looking at usage over the prior 12 months and revising upward, in some instances, for future estimates. Some utilities stated that they began contacting budget billing customers in early winter so they could begin reevaluating budget billing amounts. However, for other customers, the budget-billing amount was changed at the standard three-month or six-month review date. These reviews resulted in some budget billing customers receiving bills that were two and three times their previous amounts. Information presented at the workshop indicated that revised budget billing amounts were sometimes more than simply the previous 12-months' usage divided by 12. Some of the utilities were somewhat vague in explaining how they calculate budget billing amounts. Many amounts seemed higher than reasonable and placed budget billing customers in the position of not being able to pay their bills. At least one customer who contacted her utility was told to seek private assistance, rather than being offered possible alternatives to alleviate her situation. Considering that the original concept of budget billing was to create level and predictable payments, some of this year's adjustments seem shocking and in many cases unmanageable.

## **3. Customers who do not pay their bills November through March**

Many utilities raised the problem of customers who receive moratorium protection, yet do not make any payments during the moratorium. It was stated that



these customers make no effort to contact the company during this period to indicate they have payment problems, nor do they attempt to make payment arrangements. The utilities indicated that this is not a large segment of the customers under moratorium protection, but it is a segment that contributes significantly to the utility's workload and ultimately to the write-off for bad debts.

MidAmerican indicated Illinois requires LIHEAP customers to make a minimum 10 percent payment each month to retain disconnection moratorium protection. It was learned that the Illinois Commerce Commission requires customers receiving LIHEAP assistance to make a "good faith effort" at paying their winter heating bills in order to be protected from disconnection during the winter moratorium. "Good faith effort" is defined as paying at least 10 percent of past due bills. LIHEAP payments may not be counted toward the 10 percent. The Bureau of Energy Assistance indicated that LIHEAP payments may only be applied to current bills, which are interpreted to include budget billing balances.

#### **4. Customer education**

Many comments were received that education and information is needed to inform customers about the sources of assistance available for paying utility bills. Utilities could provide customers more information about various payment options for large bills and past due amounts. The information should address energy efficiency and encourage customers to contact their utility to work out a payment plan or revise their existing plan if the customer's economic situation changes. The CAP agencies pointed out that even if a customer does not qualify for low-income assistance, there are often other sources of funds available. Customer education is a key element in

solving the problem. Education should provide information about the various assistance programs and about help available from the utility to accommodate customer payment problems. The Bureau of Energy Assistance suggested utilities be required to file all payment agreement options with the Board and possibly include them in disconnect notices or other customer communications.

## **BOARD DISCUSSION**

### **1. Reasonable payment arrangements**

Based upon a review of the comments and the statements made at the workshop, it appears that several, if not most, utilities are not following the reasonableness standard as required by 199 IAC 19.4(10)"b." It is also evident that many of the utilities are using the 12-month minimum requirement of 199 IAC 19.4(10)"c" as a maximum limit for payment agreements rather than a minimum.

The Board in response to the failure of the utilities to comply with these provisions considered the adoption of an emergency rule that established a 24-month payment agreement requirement. The Board provided proposed language to the utilities and, based upon the utilities' responses, the Board believes that a 24-month requirement might cause additional problems. The Board also believes that if the utilities were properly applying the reasonableness and 12-month minimum provisions, there would be no need for the emergency rule.

The Board by this order is directing all utilities to comply with the letter and intent of 199 IAC 19.4(10)"b" and "c." If the utilities decide not to use the customer

information set out in paragraph "b," any ability-to-pay issues must be resolved in favor of the customer. All utilities shall file in this docket a copy of written instructions that they will provide to their customer service representatives explaining the requirements of the two provisions and explaining that customers are to be informed of the provisions. All utilities shall file the copies by May 1, 2001.

The Board will also require utilities to file with the Board on May 1, 2001, and June 1, 2001, a document showing the total number of customers who are in arrears and the number of first-time payment agreements entered into by the utility since January 1, 2001. The filing shall indicate how many of those payment agreements are for less than 12 months, how many are for 12 to 18 months, and how many are for 19 to 24 months.

## **2. Budget billing**

Budget billing is a useful tool that allows customers to anticipate their energy costs and stay current on their bills. However, there is cause for concern about the extreme adjustments that have occurred because of this winter's high bills. Given this and the vagueness of the utilities' methodologies, a more detailed examination of budget billing seems warranted. This is an area that may require a change in Board rules. The inquiry manager will be obtaining additional information in this docket from the utilities concerning budget billing.

## **3. Customers who do not pay their bills November through April**

The Board understands that there are those customers who do not make contact with the utility during the moratorium and who can accumulate a substantial arrearage over those months. In this docket the Board will consider whether

legislative changes need to be proposed to Iowa Code § 476.20 to address this situation.

#### **4. Customer education**

Customer education is critical to resolving the problems that have occurred this past winter. The inquiry manager will consider approaches to improving customer education, with a focus on minimizing the hardship on customers while keeping the utilities' uncollectable accounts at a reasonable level. The Notices of Rights and Remedies to Avoid Disconnection in Board rules will be examined to determine if the notices provide adequate information to customers.

#### **5. Future rule makings**

After consideration of the comments, the Board believes some permanent rule revisions may be necessary. These involve the problems in complying with the minimum 12-month payment plan, use of the reasonableness standard, recalculation of level payment arrangements, and standardizing the options that the utilities offer to customers for payment arrangements. These possible rule revisions will be reviewed more thoroughly and if considered necessary, notice will be published as required by Iowa Code § 17. A4.

#### **6. Compliance with current rules and utility commitments**

The Board has only summarized the many comments made by the utilities in the preceding paragraphs. Many of the utilities made specific commitments concerning the offering of payment arrangements to customers, disconnection of customers, information that customer service representatives would be providing customers, and review of the budget billing recalculation process.

The Board considers the commitments made by the utilities to be assurances that during these times of crises, the customers will be given every opportunity to retain natural gas service. Consistency of information to the public and customers by the utilities is essential, as is continuing the flexibility that the utilities stated they are providing. The Board will be in contact with the individual utilities about the commitments they made to insure the utility is following through with those commitments. The Board is holding this docket open to obtain the information directed to be filed in the March 22 order and to address any failure of a utility to meet its commitments.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

All public gas utilities shall comply fully with 199 IAC 19.4(10) and shall file the information as described in this order.

#### **UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper  
Acting Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 12<sup>th</sup> day of April, 2001.